

*veto message
Journal pg. 27*

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943

ENROLLED

HOUSE BILL No. 112

(By Mr. Ballard and Mr. Van Sickler)

PASSED February 25, 1943

In Effect from Passage

*3/5. Eng. H.B. No. 112, passed by the Senate, notwithstanding the objection of the Governor, by a "majority" vote of all the members of the Senate, taken by yeas 3 yeays to take effect from passage. Mr. Bowling to House.
A. Hale Watkins, Chairman of the Senate.*

March 4th - Passed by House, notwithstanding veto of Governor; Effective from passage.

*J. R. Clipp
Clerk, House
of Delegates*

Mr. Van Sickler to the Senate.

ENROLLED

House Bill No. 112

(BY MR. BALLARD AND MR. VAN SICKLER)

[Passed February 25, 1943; in effect from passage.]

AN ACT to amend and reenact sections one, nine and eleven, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to returns by and procedure for the assessment of the property of public service corporations for tax purposes.

Be it enacted by the Legislature of West Virginia:

That sections one, nine and eleven, article six, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. *Public Service Corporations; Returns of*
2 *Property to Board of Public Works.*—On or before the
3 first day of April in each year a return in writing to the
4 board of public works shall be delivered to the tax com-
5 missioner by the owner or operator of every railroad,
6 wholly or in part within this state; by the owner or

7 operator of every railroad bridge upon which a separate
8 toll or fare is charged; by the owner or operator of every
9 car or line of cars used upon any railroad within the
10 state for transportation or accommodation of freight or
11 passengers, other than such owners or operators as
12 may own or operate a railroad within the state; by the
13 owner or operator of every express company or express
14 line, wholly or in part within this state, used for the trans-
15 portation by steam or otherwise of freight and other
16 articles of commerce; by the owner or operator of every
17 pipe line, wholly or in part within this state, used for the
18 transportation of oil or gas or water, whether such oil
19 or gas or water be owned by such owner or operator or
20 not, or for the transmission of electrical or other power,
21 or the transmission of steam or heat and power or of
22 articles by pneumatic or other power; and by the owner
23 or operator of every telegraph or telephone line, wholly
24 or in part within this state, except private lines not op-
25 erated for compensation; and by the owner and operator
26 of every gas company and electric lighting company fur-
27 nishing gas or electricity for lighting, heating or power

28 purposes; and hydro-electric companies for the generation
29 and transmission of light, heat or power; water com-
30 panies furnishing or distributing water, and all other pub-
31 lic service corporations or persons engaged in public
32 service business whose property is located wholly or in
33 part within this state. The words "owner or operator,"
34 as applied herein to railroad companies, shall include
35 every railroad company incorporated by or under the
36 laws of this state for the purpose of constructing and
37 operating a railroad, or of operating part of a railroad
38 within this state, whether such railroad or any part of it
39 be in operation or not; and shall also include every other
40 railroad company, or persons or associations of persons,
41 owning or operating a railroad or part of a railroad in this
42 state on which freight or passengers, or both, are car-
43 ried for compensation. The word "railroad," as used
44 herein includes every street, city, suburban or electric
45 or other railroad, or railway. The words "owner or op-
46 erator," as applied herein to express companies shall in-
47 clude every express company incorporated by or under
48 the laws of this state, or doing business in this state,

49 whether incorporated or not, and any person or associa-
50 tion of persons, owning or operating any express com-
51 pany or express line upon any railroad or otherwise, do-
52 ing business partly or wholly within this state. Such
53 return shall be signed and sworn to by such owner or
54 operator if a natural person, or, if such owner or oper-
55 ator shall be a corporation, shall be signed and sworn to
56 by its president, vice president, secretary or principal
57 accounting officer. The return required by this section of
58 every such owner or operator shall cover the year end-
59 ing on the thirty-first day of December, next preceding,
60 and shall be made on forms prescribed by the board of
61 public works, which board is hereby invested with full
62 power and authority and it is hereby made its duty to
63 prescribe such forms as will require from any owner or
64 operator herein mentioned such information, as in the
65 judgment of the board, may be of use to it in determin-
66 ing the true and actual value of the properties of such
67 owners or operators.

211 Sec. 9. *Compelling Such Return; Procuring Informa-*
212 *tion and Tentative Assessment by Tax Commissioner.—*

3 If any owner or operator fail to make such return within
4 the time required by section one of this article, it shall
5 be the duty of the tax commissioner to take such steps
6 as may be necessary to compel such compliance, and to
7 enforce any and all penalties imposed by law for such
8 failure. The return delivered to the tax commissioner
9 shall be examined by him, and if it be found insufficient
10 in form or in any respect defective, imperfect or not in
11 compliance with law, he shall compel the person required
12 to make it to do so in proper and sufficient form, and in
13 all respects as required by law. If any such owner or
14 operator fail to make such return, the tax commissioner
15 shall proceed, in such manner as to him may seem best,
16 to obtain the facts and information required to be fur-
17 nished by such returns; and to this end the tax commis-
18 sioner may send for persons and papers, and may com-
19 pel the attendance of any person, and the production of
20 any paper necessary, in the opinion of said tax commis-
21 sioner, to enable him to obtain the information required
22 for the proper discharge of his duties under this section.
23 The tax commissioner shall arrange, collate and tabulate

24 such returns and all pertinent information and data con-
25 tained therein, such further evidence or information as
26 may be required by the tax commissioner of such owner
27 or operator, and all other pertinent evidence, information
28 and data he has been able to procure, upon suitable work
29 sheets, so that they may be ^{en} ~~conveniently~~ ^{the} considered, and
30 shall on or before the fifteenth day of May, lay such re-
31 turns and work sheets, together with his recommenda-
32 tions in the form of a tentative assessment of the prop-
33 erty of each such owner or operator, before the board of
34 public works. ^{OK} And as soon as the tax commissioner has
35 completed the preparation of such work sheets and tenta-
36 tive assessments, he shall notify the owner or operator
37 affected thereby of the amount of such tentative assess-
38 ment by written notice deposited in the United States
39 post office, addressed to such owner or operator at the
40 principal office or place of business of such owner or oper-
41 ator and the tax commissioner shall retain in his office
42 true copies of such work sheets which shall be available
43 for inspection by any such owner or operator or his duly
44 authorized representative.

Sec. 11. *Valuation of Property by Board.*—Upon the
2 fifteenth day after giving the notices required by section
3 nine of this article, or as soon thereafter as reasonably
4 convenient but not later than the first day of June, the
5 board of public works shall proceed to assess and fix the
6 true and actual value of all property of such owner or
7 operator hereinbefore required to be returned, in each
8 county through which the railroad, car line, cars, express,
9 telegraph, telephone, or pipe line of such owner or oper-
10 ator runs, and in which any property to be assessed is
11 located. In ascertaining such value the board shall con-
12 sider the return, if any, made by the owner or operator,
13 and any return which may have been previously made
14 by such owner or operator, the work sheets and tenta-
15 tive assessment recommended by the tax commissioner,
16 such evidence or information as may be offered by such
17 owner or operator, such further evidence or informa-
18 tion as may be required by the board of such owner or
19 operator, and any other pertinent evidence, informa-
20 tion and data, at a regular meeting of the board held
21 for such purpose at least fifteen days after giving the

22 notice required by section nine of this article. Before any
23 assessment shall be made by the board, any and all evi-
24 dence, information and data considered by the board
25 shall be available for inspection by any such owner or
26 operator or his duly authorized representative, and an
27 opportunity given to be heard thereon. When the board
28 of public works has assessed any property hereby re-
29 quired to be returned, and has determined the valua-
30 tion thereof, such assessment and valuation shall be en-
31 tered of record in the book of minutes of its proceedings,
32 and shall be certified by the secretary of the board to the
33 auditor. Nothing in this chapter contained shall be con-
34 strued to require the assessment by the board of public
35 works of any part of a railroad, telegraph, telephone or
36 pipe line until such part is so far completed as to be fit
37 for use. But material held by any railroad, telegraph,
38 telephone or pipe line company shall be returned to the
39 board of public works for assessment as personal prop-
40 erty. As soon as such assessment is made, the secretary
41 of the board shall notify the owner or operator affected
42 thereby of the amount thereof by written notice deposited

43 in the United States post office, addressed to such owner
44 or operator at the principal office or place of business of
45 such owner or operator. Such assessment and valuation
46 shall be final and conclusive, unless the same be appealed
47 from in the manner following, within fifteen days after
48 such notice is so deposited.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray F. Jinnison
Chairman Senate Committee

Fred H. Potwiff
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

A. Hale Watkins
Clerk of the Senate

J. A. Shiff
Clerk of the House of Delegates

James Paull
President of the Senate

John E. Cress
Speaker House of Delegates

The within _____ this the _____

day of _____, 1943.

Governor.